REMARKS

Claims 1-23 are pending. Claim 1 is amended. Claim 23 is allowed. Support for the amendment can be found in at least the last sentence of paragraph 45 of Applicants' specification. Applicants submit that the amendments do not add new material to the current Application. No amendment made is related to the statutory requirements of patentability unless expressly stated herein. No amendment made is for the purpose of narrowing the scope of any claims, unless Applicants argue herein that such amendment is made to distinguish over a particular reference or combination of references.

Claims 1, 2, 4, 9, and 11 are patentable under 35 U.S.C. 102(b) over Razouk (5,911,109).

Razouk teaches filling the remainder of the trench opening with the glass material. In contrast, claims 1, 2, 4, 9, and 11 form an insulating layer over the layer at approximately atmospheric pressure to seal the opening. Filling the opening is not the same as sealing an opening because when an opening is sealed a gap remains. Claim 1 has been amended to clarify what is meant by sealing to hasten prosecution. More specifically, claim 1 now states, "wherein the insulating layer does not encroach the opening." Clearly Razouk's glass material encroaches the opening because the glass material fills the opening. Thus, Razouk fails to teach or suggest all features of claim 1 (e.g., forming an insulating layer over the layer at approximately atmospheric pressure to seal the opening, wherein the insulating layer does not encroach the opening). For at least this reason, claim 1, 2, 4, 9, and 11 are patentable under 35 U.S.C. 102(b) over Razouk.

Furthermore, claims 1, 2, 4, 9, and 11 are patentable over Razouk in all regards because Razouk does not suggest all features of claim 1 (e.g., forming an insulating layer over the layer at approximately atmospheric pressure to seal the opening, wherein the insulating layer does not encroach the opening). Razouk teaches away from "forming an insulating layer over the layer at approximately atmospheric pressure to seal the opening, wherein the insulating layer does not encroach the opening" because Razouk teaches reflowing at approximately atmospheric pressure to prevent voids and encroaches the opening. In contrast, Applicants want an opening and thus Razouk teaches away from "forming an insulating layer…to seal the opening" because Razouk teaches filling the opening as much as possible.

Claims 3 and 5-8 are patentable under 35 U.S.C. 103(a) over Razouk (5,911,109).
As discussed above and not repeated for brevity, Razouk fails to teach or suggest all feature of at least independent claim 1 from which claims 3, and 5-8 depend. Therefore, for at least these reasons claims 3 and 5-8 are patentable over Razouk under 35 U.S.C. 103(a).

Furthermore, Applicants wish to point out that the Office Action repeatedly improperly states that "The Examiner takes judicial notice..." Only judicial officers (not Examiners) can take judicial notice. Examiners instead can take official notice. Applicants submit that this is an error and understand that "official notice" should replace all instances of "judicial notice." (See MPEP 2144.03).

In addition, Applicants wish to point out and reserve for later comment, if necessary, that even if depositing an insulating layer using CVD is well known, it is the invention as a whole that must be taught or suggested by the prior art. (MPEP 2141.02). For example, would one or ordinary skill in the art know how to perform CVD to form an insulating layer over the layer at approximately atmospheric pressure to seal the opening?

No rejection of Claims 10 and 12-22 is found in the Office Action.

Although claims 1-22 are stated as rejected on form PTOL-326, no status as to the claims is mentioned in the office action. In the previous office action, claims 10 and 12-22 were rejected under 35 U.S.C. 112, first paragraph, but this rejection was withdrawn. More specifically, no basis for rejecting claims 10 and 12-22 is provided in the Office Action as required by MPEP 707.07(i). Therefore, the rejection is incomplete.

Applicants submit that claims 10 and 12-22 are patentable over the prior art of record. Since the Examiner has failed to make a *prima facie* case of rejection, Applicants have nothing to which to respond.

(Furthermore, PTOL-36 is confusing as it states that claims 1-22 are rejected, but also states that claim 2 is objected to. However, in the Office Action claim 2 is rejected. Appropriate correction is requested.)

In addition, although the Office Action contains additional statements characterizing the claims, the specification, previous arguments, or the prior art Applicant refuses to subscribe to any of these statements, unless expressly indicated by Applicant regardless of whether such statements are addressed by Applicant.

Applicants earnestly solicit allowance of all pending claims. Please contact Applicant's practitioner listed below if there are any issues that can be resolved by telephone.

Respectfully submitted,

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